

Application No.: 10/786,576
Filing Date: February 24, 2004

REMARKS

By this paper, Applicant has amended Claims 1, 2, 6, 24, 26, 33, and 35. Hence, Claims 1-48 are pending in this application. Applicant respectfully requests entry of the foregoing amendments and following remarks.

Claim Rejections under 35 U.S.C. 103(a)

Claims 1-6, 9-21, and 24-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,298,942 B1 (“Schlatmann”) and U.S. Patent Publication No. 2001/0027560 A1 (“Simon”).

Claims 7-8, and 22-23 stand rejected under 35 U.S.C. 102(b) as being unpatentable over Schlatmann and Simon and in further view of U.S. Patent No. 7,034,902 B2 (“Tajima”). Applicant believes that the rejection under 35 U.S.C. 102(b) was a typographical error and the rejection by the Examiner was to be made under 35 U.S.C. 103(a).

Applicant respectfully submits that pending Claims 1-48 are allowable over the prior art of record as discussed below.

Standard of *Prima facie* Obviousness

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). To establish a *prima facie* case of obviousness, however, prior art (as opposed to prior art references) must teach or suggest all the claim limitations. “Examination Guidelines for Determining Obviousness Under 35 U.S.C. §103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*” Federal Register Vol. 72 No. 195 at 57528 (October 10, 2007). Further, the Patent Office must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. *Id.*

Independent Claims

Independent Claim 1

Independent Claim 1 recites, *inter alia*, “a modular mounting bar for securing components for use with a display device to a surface separate from the display device, comprising” “a rail configured to be attached to the surface,” “wherein the rail is not coupled to

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the display device.” Applicant respectfully submits that neither Schlatmann nor Simon, alone or in combination, teach or suggest at least the above-indicated features.

The specification at paragraph [0003] of the current application refers to a display as having a screen and a housing for the screen. Therefore, a display device as the term is used in the claims should be interpreted as comprising both a screen and a housing for the screen. *See M.P.E.P. 2173.05(a).*

Schlatmann discloses a housing with elongate speaker enclosures which extend near a front side of the housing (Column 4, lines 55-58). The housing and a display screen are part of a flat-panel multi-media TV (Column 3, lines 62-65). The Examiner defined a lower portion of the housing as a rail. Therefore, at most, Schlatmann discloses a display device including a housing and a display screen, wherein the rail is a portion of the housing and therefore the rail is an integrated portion of the display device. Schlatmann, therefore, does not disclose that the “rail is not coupled to the display device,” as recited in Claim 1. The remaining applied prior art does not cure this deficiency in Schlatmann. Therefore, the combination of the prior art references does not teach or suggest all of the features of Claim 1.

Independent Claim 2

Independent Claim 2 recites, *inter alia*, “a rail wherein the rail is configured to be attached to a surface other than surfaces of the display device, wherein the rail is separate from the display device.” Applicant respectfully submits that neither Schlatmann nor Simon, alone or in combination, teach or suggest at least the above-indicated feature.

As discussed above, at most, Schlatmann discloses a display device including a housing and a display screen, wherein the rail is a portion of the housing and therefore the rail is an integrated portion of the display device. Schlatmann, therefore, does not disclose that the “rail is separate from the display device,” as recited in Claim 2. The remaining applied prior art does not cure this deficiency in Schlatmann. Therefore, the combination of the prior art references does not teach or suggest all of the features of Claim 2.

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Independent Claim 24

Independent Claim 24 recites, *inter alia*, “a method of mounting audio-visual components for use with a display device, to a surface separate from the display device, comprising: securing a rail to the surface.” Applicant respectfully submits that neither Schlatmann nor Simon, alone or in combination, teach or suggest the above-indicated feature.

As discussed above, at most, Schlatmann discloses a display device including a housing and a display screen, wherein the rail is a portion of the housing and therefore the rail is integrated with and therefore “secured” to the display device. Schlatmann, therefore, does not disclose “securing a rail to the surface,” where the surface is “separate from the display device” as recited in Claim 24. The remaining applied prior art does not cure this deficiency in Schlatmann. Therefore, the combination of the prior art references does not teach or suggest all of the features of Claim 24.

Independent Claim 26

Independent Claim 26 recites, *inter alia*, “a rail wherein the rail is configured to only be attached to a surface other than surfaces of the display device.” Applicant respectfully submits that neither Schlatmann nor Simon, alone or in combination, teach or suggest the above-indicated feature.

As discussed above, at most, Schlatmann discloses a display device including a housing and a display screen, wherein the rail is a portion of the housing and therefore the rail is integrated with and therefore “attached” to the display device. Schlatmann, therefore, does not disclose “the rail is configured to only be attached to a surface other than surfaces of the display device,” as recited in Claim 26. The remaining applied prior art does not cure this deficiency in Schlatmann. Therefore, the combination of the prior art references does not teach or suggest all of the features of Claim 26.

Independent Claims 33 and 35

Independent Claim 35 recites, *inter alia*, “a modular mounting bar for securing components in proximity to a display device having a width, the display device being secured to a wall, comprising” “a rail configured to be secured to the wall independent from the display

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device.” Independent Claim 33 recites a similar limitation thereto. Applicant respectfully submits that neither Schlatmann nor Simon, alone or in combination, teach or suggest the above-indicated features.

As discussed above, at most, Schlatmann discloses a display device including a housing and a display screen, wherein the rail is a portion of the housing and therefore the rail is an integrated portion of the display device. Therefore, when wall mounted, the display device and rail portion are secured to the wall together, as they are an integrated whole. Schlatmann, therefore, does not disclose “a rail configured to be secured to the wall independent from the display device” as recited in Claim 35. The remaining applied prior art does not cure this deficiency in Schlatmann. Therefore, the combination of the prior art references does not teach or suggest all of the features of Claims 33 or 35.

Conclusion

As discussed above, each of independent Claims 1, 2, 24, 26, 33, and 35 include features not taught or suggested by the combination of the applied prior art. Accordingly, Applicant respectfully submits that no *prima facie* case of obviousness has been established with respect to independent Claims 1, 2, 24, 26, 33, and 35, and thus each of independent Claims 1, 2, 24, 26, 33, and 35 are allowable over the applied prior art for at least the reasons stated above.

Dependent Claims

Dependent Claims 3-23, 25, 27-32, 34, and 36-48

Claims 3-23, 25, 27-32, 34, and 36-48 each depend from one of independent Claims 1, 2, 24, 26, 33, or 35, and further define additional features. In view of the patentability of their base claim, and in further view of the additional features, Applicant respectfully submits that the dependent claims are patentable over the applied prior art.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this

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application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art discloses or teaches, even if not expressly discussed herein. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language.

Applicant has not presented all arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above, and Applicant reserves the right to later contest whether a proper reason exists to combine these references and

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to submit evidence relating to secondary considerations supporting the non-obviousness of the apparatuses/methods recited by the pending claims.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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